

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	IBFS File Nos.:
	)	
Liberty Media Corporation, Transferor	)	SAT-T/C-20100407-00065
	)	SAT-T/C-20100407-00066
	)	SAT-T/C-20100407-00067
DIRECTV, Transferee	)	SES-T/C-20100409-00423
	)	SES-T/C-20100408-00433
	)	SES-T/C-20100408-00434
	)	SES-T/C-20100408-00435
	)	SES-T/C-20100408-00436
	)	SES-T/C-20100408-00443
	)	
Applications for Authority to Transfer Control	)	WTB File Nos.:
of Satellite Earth Station and Space Station	)	
Licenses, and Wireless Authorizations	)	0004200888
	)	0004201025
	)	0004201027
	)	0004201245

**ORDER**

**Adopted: June 16, 2010**

**Released: June 16, 2010**

By the Chief, International Bureau; Chief, Wireless Telecommunications Bureau:

1. In this Order, we approve applications proposing a transfer of control to satisfy one of the conditions imposed by the Commission in connection with its approval of Liberty Media Corporation's acquisition of DIRECTV from News Corporation.<sup>1</sup> On April 7 and 8, 2010, DIRECTV filed the above-captioned applications seeking approval of the transfer of *de facto* control of various space station, earth station, and terrestrial wireless authorizations held by DIRECTV and its subsidiaries, and which are attributable to Dr. John Malone, from Dr. Malone to DIRECTV. DIRECTV has submitted these applications in order to comply with a condition that the Commission adopted when approving the transfer of control of DIRECTV from News Corporation to Liberty Media Corporation. Specifically, a condition of the transaction was that DIRECTV and Liberty Media Corporation would sever all attributable ties between DIRECTV Puerto Rico ("DTVPR") and Liberty Cable Puerto Rico ("LCPR") ("Puerto Rico Condition").<sup>2</sup> As discussed below, granting the above-captioned applications as conditioned will serve the public interest, because the proposed transactions will sever these attributable ties and, by doing

<sup>1</sup> See *News Corporation and The DIRECTV Group, Inc., Transferors, and Liberty Media Corporation, Transferee*, Memorandum Opinion and Order, MB Docket No. 07-18, 23 FCC Rcd 3265 (2008) ("*Liberty Media-DIRECTV Order*").

<sup>2</sup> *Id.* at 3294 ¶ 63, 3340 Appendix B at Section I.

so, will promote competition in the Puerto Rico video programming market, as the Commission determined in the *Liberty Media-DIRECTV Order*.<sup>3</sup> Accordingly, we approve these Applications subject to the terms and conditions set forth in the *Liberty Media-DIRECTV Order* approving Liberty Media's acquisition of a *de facto* controlling interest in DIRECTV and its subsidiaries.<sup>4</sup>

2. DIRECTV makes two core proposals in its applications. First, three directors of DIRECTV who were appointed by Liberty Media Corporation – Dr. Malone, Mr. Greg Maffei, and Mr. Paul Gould – will resign from DIRECTV's board of directors. DIRECTV's Nominating Committee, which is comprised of independent directors, will nominate three independent directors to serve as replacements.<sup>5</sup> Second, all of the high-vote class B shares held by Dr. John Malone, his wife, and two trusts for the benefit of his children (collectively, the "Malones") will be converted to class A shares, thereby reducing the Malones' voting interest in DIRECTV from approximately 24.3% to about 3%.<sup>6</sup> No comments or petitions were filed in response to the applications.

3. We are persuaded that the proposed transactions serve the public interest and present no countervailing harms. The applicants propose that the Malones' voting interests in DIRECTV be reduced to a level that the Commission would consider non-attributable under the cable television attribution criteria.<sup>7</sup> Moreover, the applicants have represented that the remainder of DIRECTV's equity and voting interests are widely held and that no other party currently controls more than ten percent of either of such interests.<sup>8</sup> Accordingly, Dr. Malone's relinquishment of *de facto* control of DIRECTV, which will occur as a result of the applicants' proposed transactions, directly alleviates the concerns that caused the Commission to adopt the Puerto Rico Condition requiring the applicants to sever all attributable ties between DTVPR and LCPR.<sup>9</sup>

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<sup>3</sup> *Id.* at 3294 ¶ 63.

<sup>4</sup> *Liberty Media-DIRECTV Order*, 23 FCC Rcd 3265. Nothing in this Order serves to terminate any condition of the *Liberty-DIRECTV Order* other than the Puerto Rico Condition. Termination of any other condition may occur only pursuant to the terms of the *Liberty-DIRECTV Order*.

<sup>5</sup> See Application for Satellite Space and Earth Station Authorizations for Transfer of Control or Assignment, John C. Malone, Transferor, to Liberty NC, Transferee, Application Nos. SAT-T/C-20100407-00065, *et seq.*, Description of the Transaction and Public Interest Statement at 3 ("Public Interest Statement").

<sup>6</sup> See Public Interest Statement at 2.

<sup>7</sup> See 47 C.F.R. § 76.501 Note 2(a); Public Interest Statement at 3.

<sup>8</sup> See Public Interest Statement at 2. In addition, the Applicants represent that after the transactions, no person or entity other than institutional investors will hold 5 percent or more of DIRECTV's voting interests. See Public Interest Statement at 3.

<sup>9</sup> The Commission determined in the *Liberty DIRECTV Order*, and the parties conceded, that the transfer from News Corp. to Liberty Media would result in Liberty Media attaining *de facto* control over DIRECTV. See *Liberty DIRECTV Order*, 23 FCC Rcd 3265, 3266, 3275 ¶¶ 2, 18. The Commission also determined that John Malone controlled Liberty Media. See *Liberty DIRECTV Order*, 23 FCC Rcd 3265, 3283, 3285 ¶¶ 38, 42. As further explained below, the proposed transactions would result in neither Liberty Media nor Dr. Malone being able to dominate or unduly influence the corporate affairs of DIRECTV. See generally *Liberty DIRECTV Order*, 23 FCC Rcd 3265, 3285 ¶ 42 ("A person has *de facto* control when he possesses the ability to dominate the corporation's affairs").

4. We also are persuaded that the proposed board resignations will remedy the Commission's concerns about overlapping directorates as expressed in the *Liberty Media-DIRECTV Order*.<sup>10</sup> In addition to Dr. Malone's proposed resignation from the DIRECTV Board of Directors, the resignations of Mr. Maffei and Mr. Gould will ensure that no director of DIRECTV will hold positions with companies that may be considered to be affiliated with Dr. Malone. Moreover, DIRECTV proposes to install three replacement directors who will have no attributable interest in Liberty Media or Liberty Global, Inc., or otherwise be considered to have attributable ties to Dr. Malone as determined in accordance with the Commission's rules.<sup>11</sup> In this regard, we note that Section 76.1000(b) of the Commission's Rules is the governing standard for attribution for purposes of the condition at issue.<sup>12</sup> Furthermore, as the Commission stated in the *Liberty Media-DIRECTV Order*, "determining whether a particular interest is attributable is a fact-intensive inquiry, and, even where an interest may appear non-attributable under the bright-line attribution rules, the Commission retains the discretion to review individual cases that present unusual issues."<sup>13</sup> Application of the Commission's attribution standard to the facts presented here persuades us that the proposed board resignations will address the overlapping directorate concerns set forth in the *Liberty Media-DIRECTV Order*.

5. By their own terms, all of the *Liberty Media-DIRECTV Order* conditions will continue to apply to DIRECTV and Liberty Media following the transactions, as DIRECTV and Liberty Media acknowledge.<sup>14</sup> The applicants do not seek relief from the programming safeguards that the Commission established in the *Liberty Media-DIRECTV Order*. The transactions proposed in these applications do not affect the continuing validity and legal effect of the remaining conditions set forth in Appendix B of the *Liberty Media-DIRECTV Order*. As the Commission previously concluded, these "conditions are sufficient to ameliorate any potential vertical integration harms that might otherwise occur" due to the combination of Liberty Media's and DIRECTV's assets under common control.<sup>15</sup>

6. We agree with the applicants that the proposed transactions present no cognizable public interest harms. Further, we find that the proposed transactions will satisfy the Puerto Rico Condition.

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<sup>10</sup> *Id.* at 3285-86 ¶ 43.

<sup>11</sup> See Public Interest Statement at 3 ("No such nominee will have an attributable interest in Liberty Media or LGI, or otherwise be considered to be attributable to Dr. Malone as determined in accordance with the Commission's rules"). In addition, "DIRECTV's Board of Directors will be entirely independent of Dr. Malone and companies which may be considered to be under his *de facto* control, where three of DIRECTV's 11 Directors (including its Chairman) may be considered to be currently so affiliated." Public Interest Statement at 3.

<sup>12</sup> 47 C.F.R. § 76.1000(b).

<sup>13</sup> *Liberty DIRECTV Order*, 23 FCC Rcd 3265, 3294 ¶ 63 Note 193.

<sup>14</sup> See Public Interest Statement at 5. In addition, the *Liberty Media-DIRECTV Order* expressly establishes that all of the conditions will continue to apply to DIRECTV and its subsidiaries after the transaction. The order also provides that the conditions will apply to any entity or program rights holder in which John Malone holds an attributable interest. *Liberty Media-DIRECTV Order*, 23 FCC Rcd at 3340 Note 3 (defining "Liberty Media," to include any entity or program rights holder in which Malone holds an attributable interest); *In re Liberty Media Corporation, Transferor and DIRECTV, Transferee*, Order, 24 FCC Rcd 12221, 12223 Note 10 and text (October 1, 2009).

<sup>15</sup> *Liberty Media-DIRECTV Order*, 23 FCC Rcd 3265, ¶¶ 153, 155.

7. Accordingly, having reviewed the Applications and the record in this matter, IT IS ORDERED, pursuant to sections 4(i), 4(j), 309, and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 309, 310(d), that the applications listed in the caption of this Order ARE GRANTED subject to the conditions set forth at Sections II through V of Appendix B to the Commission's Order in *News Corporation and The DIRECTV Group, Inc., Transferors, and Liberty Media Corporation, Transferee*, 23 FCC Rcd 3265 (2008).

8. IT IS FURTHER ORDERED that this Order SHALL BE EFFECTIVE upon release.<sup>16</sup>

9. This action is taken pursuant to authority delegated under Sections 0.204, 0.261, and 0.331, of the Commission's Rules, 47 C.F.R. §§ 0.204, 0.261, and 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Mindel De La Torre  
Chief, International Bureau

Ruth Milkman  
Chief, Wireless Telecommunications Bureau

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<sup>16</sup> See 47 C.F.R. §§ 1.103, 1.4(b)(2).